

REMARKS

Upon entry of the present amendment, claims 1, 5-6, 9-10, 14-15 and 17-19 are pending in the application, of which claims 18-19 are withdrawn from consideration due to a restriction requirement. Claims 3, 7 and 8 are canceled herein without prejudice and without abandonment of the subject matter thereof. Claims 1, 5 and 9 are amended herein. Specifically, claim 1 is amended to include the features of claims 7 and 8, now cancelled, and claims 5 and 9 are amended to depend from claim 1. No new matter is added.

Double Patenting

Claims 1, 3, and 7-10 were provisionally rejected by the Examiner on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 13, 15 and 17-18 of co-pending application No. 12/067,854 (Biver, US 2008/0252846).

Applicant acknowledges the provisional nonstatutory obviousness-type double patenting rejection, and will defer addressing this issue until allowance of claims in the co-pending application.

35 U.S.C. § 103 Rejections

Claims 1, 3, and 17 were rejected under 35 USC 103(a) as being unpatentable over Spahl (DE 10237684). In addition, claims 1, 3, and 17 were rejected under 35 USC 103(a) as being unpatentable over Heimberger (US 3,211,047) in view of Serrell (US 2,334,446).

Applicant disagrees that Spahl, or Heimberger as modified by Serrell, make obvious the following features recited in claim 1 as amended herein: “the element comprises two first zones, each associated with a polarization filter oriented vertically relative to the position of use of the element and each located adjacent to a lateral edge of the element, and the second and third zones are located between said two first zones, said third zone being located below said second zone in the use position of the element, and said two first zones are separated by a distance lying between 10 and 60 mm in a central portion of said element.” In particular, Spahl fails to disclose a vision element/spectacle

lens that includes first, second, and third zones arranged as claimed. Instead, Spahl discloses a two-piece motorcycle helmet visor, including a visor portion 1, and insert 2 which is movable relative to the visor portion 1. Both the visor portion 1 and insert 2 are provided with alternating regions ("ranges") of polarization, and the visor portion 1 and insert 2 are moved relative to each other to obtain a desired effective polarization of the motorcycle visor as a whole. That is, when the visor portion 1 and insert 2 are assembled together, the viewer is provided a vision element of a single (combined) polarization, rather than a vision element having distinct regions of polarization. Thus Spahl fails to disclose or suggest first zones, each located adjacent a lateral edge of the element, and having second and third zones between the first zones, the third zone below the second zone, as claimed by the applicant.

In addition, Spahl fails to disclose that the two first zones are separated by a distance lying between 10 and 60 mm in a central portion of said element. Instead, Spahl is silent as to the relative dimensions and spacing of the regions/ranges.

As regards Heimberger as modified by Serrell, these references also fail to disclose an element that comprises two first zones, each associated with a polarization filter oriented vertically relative to the position of use of the element and each located adjacent to a lateral edge of the element, as recited in amended claim 1. Instead, Heimberger discloses two first zones (A, D) in which zone A is clearly not adjacent to a lateral edge of the element, but is instead spaced apart from the lateral edge (Fig. 1, 3; col. 4, lines 28-52). Note that zone A is bordered on its respective lateral sides by zones B and C. Modification of Heimberger to include a third zone as taught by Serrell does not cure this deficiency.

In addition, Heimberger fails to disclose the second and third zones as being located between said two first zones, said third zone being located below said second zone in the use position of the element, as recited in amended claim 7. Instead, Heimberger discloses only one zone B (e.g., a second zone) disposed between the two first zones A, D, and fails to disclose a third zone located below the second zone B.

Again, modification of Heimberger to include a third zone as taught by Serrell does not cure this deficiency.

As regards claims 3 and 17, applicant disagrees with the rejection of these claims for at least the reasons stated above with respect to claim 1, from which claims 3 and 17 depend.

Claims 5-6 and 14-15 were rejected under 35 USC 103(a) as being unpatentable over Spahl in view of Fiala (US 5,152,411). In addition, claims 5-6 and 14-15 were rejected under 35 USC 103(a) as being unpatentable over Heimberger in view of Serrell, in further view of Fiala.

As regards claims 5-6 and 14-15, applicant disagrees with the rejection of these claims for at least the reasons stated above with respect to claim 1, from which claims 5-6 and 14-15 depend.

Allowable Subject Matter

Applicant notes that no rejections were presented with respect to claims 7-10, and therefore gratefully acknowledges that these claims include allowable subject matter. In view thereof, claim 1 has been amended to include the limitations originally recited in claims 7 and 8, and claims 7 and 8 have been canceled.

Conclusion

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any

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claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

No fees are believed to be due at this time. Please apply any other charges or credits to Deposit Account No. 50-4189, referencing Attorney Docket No. 45201-012US1.

Respectfully submitted,

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